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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
LLP  
1300 I STREET, NW  
WASHINGTON, DC 20005

EXAMINER

FORD, JOHN M

ART UNIT

PAPER NUMBER

1624

DATE MAILED: 07/17/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/070976

Applicant(s)

Pfleiderer

Examiner

J.M. Ford

Group Art Unit

1624

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ONE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1--9, 11--14 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 1--9, and 11--14 are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

The claims in the application are claims 1—9 and 11—14.

This is a 371. ~~No~~ copy of German application 199 44 767.5 can be found in the file. Yes, **I** know it is supposed to be supplied by PCT, but it is simply not here.

Look at claim 1. Every  $R^1$ — $R^5$  can be  $H$  or  $CH_3$ . ~~Much~~ of the prior art is this diamino pteridine.  $R^2$  is  $CH_3$ . This hydrogen ~~is~~ methyl variation is structurally obvious.

Claim 12 is some other compound. Restriction is going to be necessary.

*There is no* one clear utility claimed here, Claim 9 is not a real world utility.

We do not have one process of preparing. Claim 11 is more than one process.

Claim 7 is not of the same scope as claim 1, as it has addition unknown active ingredients.

This is a 371 application. Lack of unity of invention in 371 applications is controlled in the United States by 37CFR 1.475.

37 CFR 1.475 provides for examination of one compound invention, one process of making those compounds, and one process of using those compounds.

Therefore, restriction is required to one of the following inventions, consistent with PCT Rule 13.2.

- ( I ) Claims 1—6 drawn to pteridine compounds.
- ( II ) Claim 7 drawn to an additional active ingredient claim; not of the same scope as claim 1.
- ( III ) Claims 8 and 9 drawn to multiple processes of using the compounds of formula I . If this Group is elected ~~a~~ further election of one specific, real world disease

Art Unit: 1624

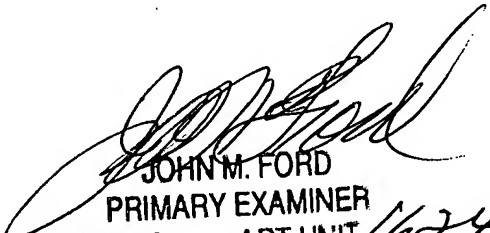
is required. One method of using compound will be examined, if Group I is elected. A specific disease is required.

(IV) Claims 11, 13 and 14 drawn to multiple processes. If this group is elected, a further election of one process is required, and if Group I is elected it will be examined, therewith.

(V) Claim 12 drawn to a mono cyclic pyrimidine.

These compounds have acquired separate status in the art, and will support separate patents. Restriction, as noted, is considered proper. Applicants would not accept a reference for one ring system being a reference for the other.

Applicants response must provide an election to be considered responsive; 37 CFR 1.499.

  
JOHN M. FORD  
PRIMARY EXAMINER  
GROUP - ART UNIT 1624

Ford/tgd  
July 14, 2003